

Exhibit MM

- GOTZ LEHSTEN -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BONNY GAS TRANSPORT LIMITED, as)
owner of the LNG FINIMA (IMO)
No.7702401),) CASE NO.
Plaintiff.) 14-cv-9542 (VEC)

-against-

O.W. BUNKER GERMANY GMBH, NUSTAR TERMINALS MARINE SERVICES, N.V., NUSTAR ENERGY SERVICES, INC., ING BANK N.V.,

Defendants.

HAPAG-LLOYD AKTIENGESELLSCHAFT

Plaintiff,) CASE NO.
) 14-cv-9949 (VEC)

-against-

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, O.W. BUNKER & TRADING
A/S, ING BANK N.V., CREDIT AGRICOLE
S.A.,

Defendants.

HAPAG-LLOYD AKTIENGESELLSCHAFT

Plaintiff,) CASE NO.
) 14-cv-10027 (VEC)

-against-

O'ROURKE MARINE SERVICES, L.P.,
L.L.P., O.W. BUNKER GERMANY GMBH
O.W. BUNKER USA, INC., ING BANK
N.V.,

Defendants.

February 23, 2016

9:05 a.m.

DEPOSITION OF GOTZ LEHSTEN

<p style="text-align: center;">Page 2</p> <p>1 - GOTZ LEHSTEN - 2) 3 UNITED STATES DISTRICT COURT) 4 SOUTHERN DISTRICT OF NEW YORK) -----x) 4 U.S. OIL TRADING LLC,) CASE NO. 5) 15-cv-6718 (VEC) 5 Plaintiff,) 6) 6 -against-) 7) 7 M/V VIENNA EXPRESS, her tackle,) 8 boilers, apparel, furniture,) 8 engines, appurtenances, etc.,) 9 in rem: M/V SOFIA EXPRESS, her) 9 tackle, boilers, apparel,) 10 furniture, engines, appurtenances,) 10 etc., in rem,) 11) 11 Defendants.) -----x) 12 HAPAG-LLOYD AKTIENGESELLSCHAFT, as) CASE NO. 13 Claimant to the M/V VIENNA EXPRESS,) 13) 14 Counter-Claimant and) 14 Third-Party Plaintiff,) 15) 15 - against -) 16) 16 U.S. OIL TRADING LLC,) 17) 17 Counter-Defendant and) 18) 18 O.W. BUNKER GERMANY GMBH, O.W.) 19 BUNKER TRADING A/S, ING BANK N.V.,) 19 and CREDIT AGRICOLE CORPORATE AND) 20 INVESTMENT BANK, a division or arm) 20 of CREDIT AGRICOLE S.A.,) 21 Third-Party Defendant. -----x 22 DATE: February 23, 2016 23 TIME: 9:05 a.m. 24 25</p>	<p style="text-align: center;">Page 4</p> <p>1 - GOTZ LEHSTEN - 2 APPEARANCES 3 KIESLICH & PARTNER RECHTSANWALTE Attorneys for the Witness 4 Moorfuhrtweg 15 22301 Hamburg, Germany 5 BY: MARTIN KIESLICH, ESQ. (via teleconference) 6 SEWARD & KISSEL LLP Attorneys for Defendant ING Bank N.V., 7 as Security Agent: One Battery Park Plaza 8 New York, New York 10004 BY: BRIAN P. MALONEY, ESQ. 9 LAURA E. MILLER, ESQ. 10 FREEHILL HOGAN & MAHAR LLP Attorneys for Hapag-Lloyd Aktiengesellschaft 11 80 Pine Street New York, New York 10005 12 BY: MICHAEL FERNANDEZ, ESQ. MICHAEL DEHART, ESQ. 13 CLYDE & CO. US LLP 14 Attorneys for U.S. Oil Trading LLC 405 Lexington Avenue 15 New York, New York 10174 BY: CASEY D. BURLAGE, ESQ. 16 McDERMOTT WILL & EMERY 17 Attorneys for O.W. Bunker Germany GMBH 340 Madison Avenue 18 New York, New York 10173 BY: DARRREN AZMAN, ESQ. 19 MICHAEL GALEN, ESQ. ULRIKE WITT, ESQ. (via teleconference) 20 -and- HILL RIVKINS LLP 21 45 Broadway, Suite 1500 New York, New York 10006 22 BY: JUSTIN M. HEILIG, ESQ. (via teleconference) 23 SIMMS SHOWERS LLP Attorneys for O'Rourke Marine Services L.P. 24 201 International Circle, Suite 250 Hunt Valley, Maryland 21030 25 BY: MARIOS J. MONOPOLIS, ESQ. (via teleconference)</p>
<p style="text-align: center;">Page 3</p> <p>1 - GOTZ LEHSTEN - 2 TELECONFERENCE DEPOSITION OF GOTZ 3 LEHSTEN, a 30(b)(6) witness, held at the offices of 4 McDermott Will & Emery, 340 Madison Avenue, New York, 5 New York, pursuant to Notice, before Hope Menaker, a 6 Shorthand Reporter and Notary Public of the State 7 of New York.</p> <p>8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">Page 5</p> <p>1 - GOTZ LEHSTEN - 2 APPEARANCES: (cont'd) 3 BLANK ROME LLP Attorneys for NuStar 4 717 Texas Avenue, Suite 1400 Houston, Texas 77002 5 BY: KEITH B. LETOURNEAU, ESQ. 6 7 ALSO PRESENT: 8 Ms. A.J. Elterman, Interpreter 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p>1 - GOTZ LEHSTEN -</p> <p>2 A. That was a condition to -- to be</p> <p>3 reseller for them.</p> <p>4 Q. Can you repeat that, please?</p> <p>5 A. The condition dealing or selling to</p> <p>6 Hapag-Lloyd's was that we accept their terms and</p> <p>7 conditions; not only in contracts, on all</p> <p>8 deliveries.</p> <p>9 Q. So Hapag-Lloyd -- in order to do</p> <p>10 business with Hapag-Lloyd, O.W. Germany was</p> <p>11 required to accept Hapag-Lloyd's conditions not</p> <p>12 only for spot deals, but also for contracts like</p> <p>13 these?</p> <p>14 MR. HEILIG: Objection.</p> <p>15 MR. FERNANDEZ: Objection to form.</p> <p>16 A. For all deals. For all deals.</p> <p>17 Q. For all deals. Okay.</p> <p>18 Can you please turn to the last page</p> <p>19 of this document? It's Page 22 of 76.</p> <p>20 A. Yes.</p> <p>21 Q. Do you see in Clause 18 titled "Law</p> <p>22 and Arbitration." If you go towards the bottom,</p> <p>23 there's a sentence that begins, "German law shall</p> <p>24 apply on the 'fuel' contract."</p> <p>25 Do you see that sentence?</p>	<p>1 - GOTZ LEHSTEN -</p> <p>2 negotiating this contract, correct?</p> <p>3 A. Yeah. All long-lasting contracts,</p> <p>4 right, I negotiate with Hapag-Lloyd but not the</p> <p>5 spot business.</p> <p>6 Q. Not the spot business. Okay.</p> <p>7 A. No, not the day-to-day spot business.</p> <p>8 Q. Got it.</p> <p>9 But again, those spot deals would</p> <p>10 fall within the fuel contract that -- as it's</p> <p>11 referred to in this -- on this page, correct? Is</p> <p>12 that your testimony?</p> <p>13 A. I'm not sure I understand. The spot</p> <p>14 business was simply given to the spot inquiries</p> <p>15 were given to O.W. Bunker Germany salesperson and</p> <p>16 they were handling it day-to-day. The contract</p> <p>17 sales, right? They passed on the next delivery</p> <p>18 they required for the ship in ARA and that he had</p> <p>19 the supplies.</p> <p>20 On the contract, you're basing not --</p> <p>21 you have set the terms right, you have set the</p> <p>22 prices. You're not negotiating like on a spot</p> <p>23 deal. We're just performing the contract.</p> <p>24 So that's more administration work</p> <p>25 you can say. And then you have the spot deals</p>
<p style="text-align: center;">Page 115</p> <p>1 - GOTZ LEHSTEN -</p> <p>2 A. There's "German law shall apply on</p> <p>3 the --"</p> <p>4 Yes.</p> <p>5 Q. What is your understanding of the</p> <p>6 "fuel contract" in quotation marks there?</p> <p>7 A. Fuel contract is any contract. Could</p> <p>8 be part of -- on a contract sales, could be spot</p> <p>9 deal.</p> <p>10 Q. So it's not limited to deals that</p> <p>11 have been consummated under this agreement,</p> <p>12 correct?</p> <p>13 A. No. It's on all deals. All terms</p> <p>14 and conditions will apply.</p> <p>15 Q. So your understanding is that fuel</p> <p>16 contract means all deals with Hapag by O.W.</p> <p>17 Germany?</p> <p>18 A. Yes, exactly.</p> <p>19 Q. Okay. And just to confirm, it is --</p> <p>20 O.W. Germany has their place of business in</p> <p>21 Hamburg, Germany, correct, or did at the time that</p> <p>22 this was entered?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. That was -- you said you did</p> <p>25 negotiate this -- had personal involvement</p>	<p style="text-align: center;">Page 117</p> <p>1 - GOTZ LEHSTEN -</p> <p>2 where they ask you for particular delivery in a</p> <p>3 certain port and then, on that day, they will fix</p> <p>4 a deal or they lose it.</p> <p>5 Q. But in either situation that you just</p> <p>6 described, the spot deal or the ARA deals, the --</p> <p>7 O.W. Germany would be conducting business with</p> <p>8 Hapag -- basis Hapag-Lloyd's terms and conditions;</p> <p>9 is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. And was it the intent of O.W. Germany</p> <p>12 to have German law apply to those contracts in</p> <p>13 those deals with Hapag?</p> <p>14 A. No. We actually don't like German</p> <p>15 law here, but it was a tradition, right? And</p> <p>16 since adapt -- suppliers have accepted their terms</p> <p>17 and conditions, it was a matter of being</p> <p>18 competitive on the terms and conditions. So we</p> <p>19 agreed or accepted without really wanting it. If</p> <p>20 that makes sense. It was a commercial decision.</p> <p>21 Q. Correct. So it was a commercial</p> <p>22 decision to get the business from Hapag to do the</p> <p>23 deals under their terms and conditions which</p> <p>24 require German law, correct?</p> <p>25 A. Yes, that's correct.</p>